

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 771 - HB 888

March 6, 2017

SUMMARY OF BILL: Requires students attending public secondary or postsecondary schools and institutions to use the restrooms and locker rooms that are assigned to the person of the same sex as shown on the students' birth certificate.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$324,000

Other Fiscal Impact – Federal funding to the state for education could be jeopardized. The extent and timing of any such withholding cannot be reasonably quantified. The Governor's FY17-18 Budget Document includes federal K-12 funding of \$1,123,714,400 and Higher Education funding of \$64,613,400.

Economic impacts from the possible loss of conventions to the Nashville-Davidson County Metropolitan Area as well as other areas of the state could result in forgone state and local tax revenue. An exact amount and timing of any impact cannot be quantified, but the net impact is reasonably estimated to exceed \$300,000 in state tax revenue and exceed \$500,000 in local tax revenue.

Assumptions:

- No change in Basic Education Program (BEP) or higher education funding formulas.
- Based on information obtained for House Bill 2414 from the 2016 legislative session, a similar piece of legislation to this year's Senate Bill 771, multiple universities will have to collect, record, scan, and enter student birth certificates and corresponding information into the Banner System.
- Based on the prior research for the previous similar legislation, it is estimated that six positions will be required across higher education institutions to perform the additional work and to keep it up-to-date. The increase in salary and benefits for each new staff member is estimated to be \$54,000; a total recurring increase in state expenditures of \$324,000 (\$54,000 x 6 positions).
- The U.S. Department of Education has "reasonably concluded that, although 34 Code of Federal Regulations (CFR) § 106.33 permits schools to provide separate boys' and girls'

restrooms, when a school elects to do so, it must permit students to use the restrooms that are consistent with their gender identity." *Brief for the United States as Amicus Curiae, G.G. v. Gloucester County School Board, No. 15 - 2056 (2015)*.

- On February 22, 2017, the U.S. Departments of Education and Justice withdrew guidance issued in the *Dear Colleague Letter on Transgender Students* without issuing new guidance. Given the recent undecided litigation and the lack of concrete guidance from the U.S. Departments of Education and Justice, it is assumed that federal funding could still be rescinded as a result of this bill.
- The Governor's FY17-18 budget includes \$1,123,714,400 in federal K-12 funding.
- Due to the bill's application to post-secondary education institutions as well, it is assumed that federal Higher Education funding could also be withheld. The Governor's FY17-18 budget includes \$64,613,400.
- The Nashville Convention and Visitors Corporation received notices from 14 organizations regarding the likelihood of withdrawing the groups' conventions from the city in the event that House Bill 2414 from 2016 became law. Based on similar actions in North Carolina after the passage of HB 2 on March 23, 2016, it is reasonably assumed that Davidson County, as well as other areas of the state, will realize a recurring loss of state and local sales and use and other tax revenue.
- Based on three scheduled conventions and using the Destination Marketing Association International (DMAI) Event Impact Calculator, the reduction in tax revenue was estimated to be \$703,540 in state taxes and \$916,095 in local taxes in FY17-18 in Nashville. These amounts include food, alcohol, hotel, and miscellaneous expenditures.
- While the Corporation may be able to find other conventions that can fill the event space if a convention decides leave the city as a result of this bill, due to the limited time frame it is unlikely any replacement convention will be of the same size and magnitude of any currently-scheduled conventions. While a precise impact cannot be specifically quantified, it is reasonably estimated the recurring net impact will result in forgone state revenue exceeding \$300,000 and forgone local revenue exceeding \$500,000 beginning in FY17-18.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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